

CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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MEETING MINUTES:

**BOARD OF PROFESSIONAL LAND SURVEYORS
Rules and Regulations Hearing & Board Meeting**

DATE AND TIME:

Tuesday August 24, 2010 at 8:30 a.m.

PLACE:

861 Silver Lake Boulevard, Dover, Delaware
Conference Room A, second floor of the Cannon Building
September 16, 2010

APPROVED:

MEMBERS PRESENT

Steven Sellers, Professional Member
Michael Szymanski, Professional Member
James Bielicki, Jr., Professional Member
Mary Chvostal, Public Member
Frank Szczuka, Public Member (entered 9:18 a.m.)

DIVISION STAFF

Frederick Schranck, Deputy Attorney General
Sandra Wagner, Administrative Specialist III
Renee' Holt, Administrative Specialist II

MEMBERS ABSENT

Laurence McBride, Professional Member
Frank Szczuka, Public Member (entered 9:18 a.m.)

PUBLIC

Julia LaBadia, Wilcox & Fetzer, court reporter
John Johnson
Jeffrey Whitmore
Kenneth Reynolds
Tom Whitehead
Donald Elrod
Roger Truemper
Robert Wijkowski
Mike Cartolano
John Bianco

CALL TO ORDER

Mr. Sellers called the Rules and Regulations hearing to order at 8:46 a.m. The court reporter took verbatim testimony. Mr. Sellers asked that the attorneys present offer their comments first. Roger Truemper, Attorney addressed the Board. Mr. Truemper expressed his concerns with the changes. Mr. Sellers inquired what documents Mr. Truemper used to prepare settlements. Mr. Truemper addressed Mr. Seller's questions. Mr. Szymanski thanked Mr. Truemper for returning to address the Board. Mr. Szymanski stated he reviewed the documents provided by Mr. Truemper at a previous meeting and had additional questions. Mr. Truemper responded to Mr. Szymanski's questions. Mr. Truemper completed his comments.

Mr. Nothe addressed the Board. Mr. Nothe stated his objections to the changes proposed by the Board. Mr. Schranck addressed Mr. Nothe. Mr. Nothe concluded his comments.

The Board recessed for a break at 10:13 a.m. The hearing resumed at 10:26 a.m.

The Board recognized Mr. Thomas Whitehead. Mr. Whitehead addressed the Board and gave his opinions on the proposed rule change. The Board thanked Mr. Whitehead for his comments.

The Board recognized Mr. Donald Elrod. Mr. Elrod addressed the Board and gave his opinions on the proposed rule change. The Board addressed Mr. Elrod. Mr. Elrod responded to the Board. The Board thanked Mr. Elrod for his comments.

The Board recognized Mr. Mike Cartolano. Mr. Cartolano addressed the Board and gave his opinions on the proposed rule change. The Board addressed Mr. Cartolano. Mr. Cartolano responded to the Board. The Board thanked Mr. Cartolano for his comments.

The Board recognized Mr. Robert Wijkowski. Mr. Wijkowski addressed the Board and gave his opinions on the proposed rule change. The Board addressed Mr. Wijkowski. Mr. Wijkowski responded to the Board. The Board thanked Mr. Wijkowski for his comments.

Mr. Bielicki addressed the Board and gave his opinions on the proposed rule change. Mr. Schranck addressed Mr. Bielicki's comments.

Mr. Szczuka addressed the Board and gave his opinions on the proposed rule change. Mr. Schranck addressed Mr. Szczuka's comments.

Mr. Whitehead addressed the Board again about a comment Mr. Bielicki stated.

Mr. Sellers made a motion, seconded by Mr. Szczuka to close the hearing at 11:52 a.m. The motion was unanimously carried.

Mr. Szymanski made a motion to add the deliberations for Rule change 12.0 to the next meeting agenda. Ms. Chvostal seconded the motion. The motion was unanimously approved.

Mr. Sellers reordered the agenda to move to Unfinished Business, Review of Application – David Dworek.

Mr. Sellers reviewed the application of David Dworek with the additional documents submitted. Mr. Szymanski consulted with Mr. Schranck regarding the Board requesting confirmation of work experience to Mr. Traynor. Mr. Schranck advised the Division could send a verification form to Mr. Dworek's supervisors – Roy Zeigler and John Traynor – requesting they complete the form to verify employment and experience. Mr. Szymanski and Mr. Sellers verified that in the application, the total number of months experience would not be equal to the required amounts even if the two supervisors verified the full work experience from Tetra Tech. Mr. Szymanski made a motion to deny the application for licensure with 10 years experience since Mr. Dworek is short 94 months in responsible charge. The motion was seconded by Ms. Chvostal. The motion was unanimously approved.

Mr. Sellers moved to the Complaint Assignments. The Board members received their complaints.

Review and Approval of Minutes

Mr. Sellers moved for the review and approval of the minutes. Mr. Szymanski made comments regarding the April 15, 2010 minutes. Mr. Szymanski indicated items that needed correction on the Approved Professional Development list online. Ms. Chvostal made a motion, seconded by Mr. Szymanski to accept the minutes for April 15, 2010 with revisions. The motion was unanimously approved.

Mr. Szymanski made corrections to the May 20, 2010 minutes. Mr. Szymanski stated Mr. Loewer was not in attendance at the May meeting and the listing needed to be updated with the change. After Mr. Szymanski reviewed the grammatical corrections, Mr. Szymanski made a motion seconded by Ms. Chvostal to approve the May 20, 2010 minutes with revisions. The motion was unanimously approved.

Mr. Szymanski noted editorial corrections to the June 17, 2010 minutes. Mr. Szczuka asked for clarification of items in the minutes. Mr. Szymanski stated for the Board's information that Mr. William Wichess had requested an extension and reported Mr. Wichess passed away. Mr. Szymanski made a motion, seconded by Ms. Chvostal to approve the minutes with editorial changes. The motion was unanimously approved.

Unfinished Business

Review of Land Surveying Certificate of Authorization Application – Ms. Chvostal made a motion to approve the applications for all below. Mr. Bielicki seconded the motion. The motion was unanimously approved.

Layout Inc.

Van Cleef Engineering Associates

Larson Engineering Group

Whitney Bailey Cox and Magnani

Wilkins – Noble, LLC.

Mr. Sellers amended the agenda to add Final Denial for Polaris Engineering. Mr. Szymanski made a motion to final deny the application, seconded by Mr. Szczuka. The motion was unanimously approved.

Review of Continuing Education Course - Michael Ray – additional supporting information – After discussion, Mr. Szymanski made a motion to approve the course surveying in D.C. for 8 PDHs, seconded by Ms. Chvostal. The motion was unanimously approved.

NEW BUSINESS

Mr. Sellers moved to the Review of Applications.

Mr. Bielicki reviewed the applications. Mr. Bielicki made a motion to table the application of Fidel Gonzalez until the Board received confirmation from PA that Mr. Gonzalez passed the Fundamentals of Principles and Practices of Surveying examination, seconded by Mr. Szymanski. After further discussion, the motion was unanimously approved.

Mr. Bielicki reviewed the application for Michael Burns. Mr. Bielicki made a motion to approve Mr. Burns to sit for the Drainage and Jurisprudence exam, seconded by Ms. Chvostal. The motion was unanimously approved.

Courses for Continuing Education Approval

Mr. Szymanski reviewed the application for PDH approval from the Maryland Society of Surveyors for the 2010 Annual Conference. Mr. Szymanski made a motion, seconded by Ms. Chvostal to approve the courses listed below for the number of PDHs indicated. The motion was unanimously approved.

Water Boundaries 10/1/10 – approved 8 PDHs

Modernization of the National Spatial Ref. Sys. By the Natl. Geodetic Survey 10/1/10 – approved 4 PDHs

New ALTA/ACSM Standards for Land Title Surveys 10/1/10 – approved 4 PDHs

The Land Surveyor in Court and Mock Trial 10/2/10 – approved 8 PDHs

Ethics for the Land Surveyor 10/2/10 – approved 4 PDHs **Ethics**

Best Methods for Real Time GNSS Positioning: A Field Guide 10/2/10 – approved 4 PDHs

Mr. Szymanski made a motion to deny the course Exam Prep-Track 1 (FS & PS) 10/1/10 – requesting 8 PDH because it is specific to examination preparation and not geared to the professional land surveyor but the prospective land surveyor. The motion failed due to a lack of a second. Ms. Chvostal seconded the motion. The motion was tabled due to a tie vote of Mr. Chvostal and Mr. Szymanski voting yes, and Mr. Sellers and Mr. Szczuka voting no.

Mr. Bielicki left the meeting at 1:28 p.m.

Mr. Szymanski made a motion to table the review of Exam Prep-Track 2 (MD, Law & Ethical Issues) 10/2/10 – requesting 8 PDHs **Ethics**, seconded by Mr. Szczuka. The motion was unanimously approved.

Mr. Szymanski reviewed the application submitted by James Conlow. PA Society of Land Surveyors – GPS Training Session 7/29/10. Mr. Szymanski made a motion, seconded by Ms. Chvostal to approve for 2 PDHs. The motion was unanimously approved.

Mr. Szymanski reviewed the application submitted by William Richardson. Mr. Szymanski made a motion, seconded by Ms. Chvostal – discussion by Mr. Szczuka asked if it pertained to surveying. Mr. Szymanski read the details of the course. Underground Services, Inc. –

Subsurface Utility Engineering – As offered through 6/30/11 – requesting 1 PDH per offering. The motion was unanimously approved.

Land Surveyor's Workshops – Mr. Szymanski noted he did not feel the Board should approve any courses past the current biennium. Mr. Szymanski made a motion stipulating they are approved through 6/30/11 and that the Expert Witness course be approved for only 3 PDHs, seconded by Ms. Chvostal. The motion was unanimously approved.

Pricing Professional Services –approved 4 PDHs
Tough Times Suck, So Do Lawsuits –approved 4 PDHs
Traverse Analysis and Adjustments –approved 8 PDHs
Area Wide VRS to get o The Same Page – requesting 4 PDHs
The First Surveyor Doctrine – Part 1 –approved 4 PDHs
The Surveyor's Role in Boundary Conflict Resolution – approved 4 PDHs
The Surveyor's Role in Mediation – approved 4 PDHs
So You've Discovered A Conflict Part 1 – approved 4 PDHs
So You've Discovered A Conflict Part 2 – approved 4 PDHs
Fundamental Practice for Writing Legal Descriptions - approved 4 PDHs – Mr. Szymanski questioned length of course
Laying a Foundation for Writing Legal Descriptions - approved 4 PDHs
The Expert Witness - approved 3 PDHs – Mr. Szymanski stated there were actually six 30 min session.
An Ethical Review of the Maxims of Jurisprudence - approved 4 PDHs – **This is approved as an Ethics course.**

Mr. Szymanski reviewed the application submitted by Douglas Loewer for a course at DTCC – Owens Campus – Review of Stormwater Management Modeling Technical Update – 10/4 – 11/22/10 approved 24 PDHs. Mr. Szymanski made a motion, seconded by Ms. Chvostal to approve. For discussion, Mr. Sellers stated courses advertised by DTCC postcard were all approved by the Board. After further discussion, the motion was unanimously approved.

Final Surveyor Intern Application

Mr. Szymanski made a motion to table the final approval of the application until the September meeting, seconded by Ms. Chvostal. Mr. Szymanski requested the application be sent to the board members for review and that the board members be prepared to discuss at September's Board meeting. The motion was unanimously approved.

Ratification of Issuance of Land Surveying Certificates of Authorization

Mr. Szymanski made a motion, seconded by Ms. Chvostal to ratify the issuance of the Certificates of Authorization. Mr. Szczuka wanted a discussion. Mr. Szczuka wanted to know if these applications were ones that were up for discussion for September's meeting. These applications were clean applications with no questions. Approval is for CMC Engineering, URS Corporation, Fuller Hall & Associates, Inc., Becker Morgan Group, Inc., Cypress Surveys, LLC, Chester Valley Engineering, Inc., Rummel, Klepper & Kahl, LLP, The Wilson T. Ballard Company, KCI Technologies, Inc., Woolpert, Inc., O'Connell & Lawrence, Inc., Davis, Bowen & Friedel, Inc., John Elliott Surveying, Inc., Ramesh C. Batta Associates PA. The motion was unanimously approved.

Complaint Assignments

Mr. Sellers confirmed receipt of Complaint # 05-04-10. Mr. Bielicki confirmed receipt of Complaint # 05-05-10.

Complaint Status

The following complaints were forwarded to the Attorney General's office: 05-04-09, 05-05-09, and 05-03-10.

Hearings/Consent Agreements/Board Orders

A hearing was scheduled for James O'Connor on September 16, 2010. Mr. Schranck stated he would contact Mr. O'Connor's attorney with additional information pertaining to the Board's decision at the November 19, 2009 meeting and the hearing would be rescheduled at a later date agreed to by the Respondent and the Attorney General's Office.

The continuation of the hearing for Bruce McKenna will occur on September 16, 2010.

EXECUTIVE SESSION

The Board went into Executive Session at 2:34 p.m. to discuss the Delaware Drainage and Jurisprudence Examination. The Board asked Ms. Wagner to respond to the correspondence relating to the Executive Session.

Closed Complaints

There were no updates on closed complaints.

Wall Certificates

Mr. Sellers and Mr. Szczuka signed the certificates for Mark A. Busch and Joseph Sturtz.

Discussion regarding meeting calendar (coordinate meetings with deadline for examination registration)

The Board discussed the need to change the months of the meetings to better serve the applicants in meeting registration deadlines for the licensing examinations. Mr. Szymanski made a suggestion to change the meeting months to January, February, March, April, May, June, August, September, October, and November. Mr. Szymanski made a motion to change the meeting months to cancel the December meeting and meet in August. Ms. Chvostal seconded the motion. The motion was unanimously approved.

Audit Compliance Update

Ms. Holt reported the licensees who were in compliance with the Board orders and those who were not or still had time to meet the requirements.

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

Mr. Szymanski reported changes requested for the listing of Professional Development courses approved. Mr. Szymanski provided comments to Ms. Wagner to be updated.

PUBLIC COMMENT

There was no public comment.

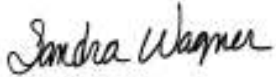
NEXT MEETING

The next scheduled meeting of the board is September 16, 2010 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business before the Board, Ms. Chvostal made a motion, seconded by Mr. Szymanski to adjourn the meeting at 2:49 p.m. The motion was unanimously approved.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Sandra Wagner".

Sandra Wagner
Administrative Specialist III